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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,236	08/05/2003	Stefan Eichhorst	5362-000469	6402

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EXAMINER

BLANKENSHIP, GREGORY A

ART UNIT PAPER NUMBER

3612

DATE MAILED: 11/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/634,236	Applicant(s) EICHHORST ET AL.	
	Examiner Greg Blankenship	Art Unit 3612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 01 September 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4,5,8-12,19,20 and 24 is/are allowed.
- 6) ☒ Claim(s) 1-3,6,7,13-18,21,23 and 25-28 is/are rejected.
- 7) ☒ Claim(s) 22 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Allowable Subject Matter***

1. The indicated allowability of claims 1-3, 6, 7, 13-18, 21, 23, 25-28 is withdrawn in view of the newly discovered reference(s) to Wolf et al. (5,881,458). Rejections based on the newly cited reference(s) follow.

### ***Claim Objections***

2. Claim 1 is objected to because of the following informalities:

Claim 1, line 12, "member" should be --support panel--.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2, 6, 7, 14, and 28 rejected under 35 U.S.C. 103(a) as being unpatentable over Just et al. (6,443,517) in view of Wolf et al. (5,881,458).

Just et al. disclose a modular convertible assembly having a modular support member (3). A roof panel (2) and its linkage assembly are attached to the modular support member (3), as disclosed on lines 27-32 of column 4. A hydraulic system and electronic control unit are connected to each other and the linkage assembly, as disclosed on lines 9-12 of column 4. The electronic control unit activates the hydraulic system to retract and extend the linkage assembly. While not specifically disclosed, a hydraulic pump is inherently a part of the

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hydraulic system. In reference to claim 28, a cover (4) is connected to hinge assemblies (7) such that the cover (4) may be moved to conceal at least part of the convertible roof (2) when the roof is fully retracted. In reference to claim 6, the modular convertible assembly is fully assembled before it is installed into a vehicle. However, Just et al. do not disclose the hydraulic system and the electronic control system mounted to a substantially vertical panel that extends from the vehicle floor to the vehicle belt line.

Wolf et al. teach a substantially vertical panel (6), as seen in Figure 5, that extends a majority of the distance between a vehicle floor and a vehicle belt line and is used for mounting various components, as disclosed on lines 50-55 of column 1.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to:

removably mount a substantially vertical panel that extends a majority of the distance between a vehicle floor and a vehicle beltline to the front of the modular support member of Just et al., as taught by Wolf et al., to strengthen the vehicle; and

mount the hydraulic system, including pump, and the electronic control unit, of Just et al., to the vertical panel to locate the hydraulic system and the electronic control unit in a location that is still accessible after the modular convertible assembly is connected to the vehicle.

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Just et al. (6,443,517) and Wolf et al. (5,881,458), as applied to claim 2, in view of Wolf et al. (5,881,458).

Just et al., as modified, does not disclose a speaker mounted to the removable panel.

Wolf et al. teach mounting speakers (14) to a vertical wall (6), as seen in Figure 5.

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to mount speakers to the removable panel of Just et al., as modified, as taught by Wolf et al., to reduce assembly time and to save space.

6. Claims 13 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Just et al. (6,443,517) and Wolf et al. (5,881,458), as applied to claims 1 and 6, in view of Neubrand (6,217,104).

Just et al., as modified, does not disclose a roof having at least two substantially rigid, hardtop panels.

Neubrand teaches a convertible roof having two substantially rigid, hardtop panels.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the convertible top of Just et al., as modified, with two substantially rigid, hard-top panels, as taught by Neubrand, to provide a roof that has more strength, is easier to clean, and provides better insulation from the elements when in the roof is in the closed position.

7. Claims 15, 16, 18, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Just et al. (6,443,517) and Wolf et al. (5,881,458), as applied to claims 1 and 6, in view of Okada et al. (6,454,344).

Just et al., as modified, does not disclose the latches (8) being controlled by the electronic control unit.

Okada et al. teach a convertible top latch mechanism (5) that is controlled by an electronic control unit.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide actuators for the convertible top latches of Just et al., as modified, that are

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electrically connected to the electronic control unit of Just et al., as taught by Okada et al., to make operation of the convertible roof easier for the passengers.

8. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of references, as applied to claim 16, in view of Neubrand (6,217,104).

Just et al., as twice modified, does not disclose a roof having at least two substantially rigid, hardtop panels.

Neubrand teaches a convertible roof having two substantially rigid, hardtop panels.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the convertible top of Just et al., as twice modified, with two substantially rigid, hard-top panels, as taught by Neubrand, to provide a roof that has more strength, is easier to clean, and provides better insulation from the elements when in the roof is in the closed position.

9. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Just et al. (6,443,517) and Wolf et al. (5,881,458), as applied to claims 1, in view of Okada et al. (6,454,344), further in view of the 2001 Ford Mustang convertible.

Just et al., as modified, do not disclose the latches (8) being controlled by the electronic control unit nor a window defroster controlled by the electronic control unit.

Okada et al. teach a convertible top latch mechanism (5) that is controlled by an electronic control unit.

The 2001 Ford Mustang convertible has a window defroster.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to:

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provide actuators for the convertible top latches of Just et al., as modified, that are electrically connected to the electronic control unit of Just et al., as modified, as taught by Okada et al., to make operation of the convertible roof easier for passengers; and

to connect a window defroster to the electronic control unit of Just et al., as modified, as taught by the 2001 Ford Mustang convertible, to reduce the time and effort needed to clear frost from the window.

10. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Just et al. (6,443,517) and Wolf et al. (5,881,458), as applied to claims 6, in view of .

Just et al., as modified, does not disclose a lamp controlled by the electronic control unit.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to connect a light to the electronic control unit of Just et al., as modified, to improve lighting within the vehicle.

11. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Just et al. (6,443,517) and Wolf et al. (5,881,458), as applied to claims 6, in view of the 2001 Ford Mustang convertible.

Just et al., as modified, do not disclose a window defroster controlled by the electronic control unit.

The 2001 Ford Mustang convertible has a window defroster.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to connect a window defroster to the electronic control unit of Just et al., as taught by the 2001 Ford Mustang convertible, to reduce the time and effort needed to clear frost from the window.

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***Allowable Subject Matter***

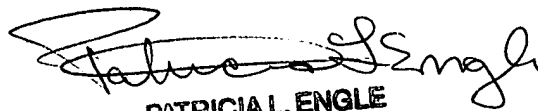
12. Claims 4, 5, 8-12, 19, 20, and 24 are allowed.
13. Claim 22 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greg Blankenship whose telephone number is 571-272-6656.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on 571-272-6659. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

gab  
November 9, 2005

  
**PATRICIA L. ENGLE**  
**PRIMARY EXAMINER**